

REMARKS

Claims 1 through 20 are in the application and are presented for reconsideration. By this amendment, Applicant has made minor clarifying changes to claim 19. The changes do not add any issues and present a minor clarification of the subject matter presented in claim 19.

The office action indicates the claims 1 – 20 are being treated as product by process claims. This does not appear appropriate as each of the terms “molded” and “welded” have been accepted in the art as defining a status or state of the finished product, not per se the process of forming. However, although Applicant disagrees with this interpretation, it is not clear as to how this interpretation affects to the treatment of the claims. Product by process language in claims allows structure to be defined by the process of forming the structure. This can be important where the structure is not easily definable. In the present case, Applicant has used the term “single injection molded” along with further clarifying language such as “one piece” which further emphasizes the integral nature of a single injected molded part. As such, the equivalents do not include multiple parts such as individually molded parts which are combined.

The term “welded” as used in the claims presents the structural state of the connection between the parts where in the connection is a material connection. In claim 16 the structural state of being “welded” is further clarified in that this is the material connection in substance between the “plastic material” and the “fixation component”. Here again, treating the term “welded” as a product by process term should not have any effect on the interpretation of the claim, particularly as the structural aspect is further clarified.

In claim 20 the term “welded” is again used as a structural state, supporting Applicant’s position that the interpretation stated in the office action is not correct. Further, the term is used to further clarify a structural feature, namely that “a weld connection” is provided connecting the “fixation component” to the “plastic material connection end”. Specifically, the weld connection is based on further structural limitations, namely”

“in which said fixation component is directly welded to said plastic material connection end, preventing relative rotation between said single injection molded plastic part and said plastic material connection end.”

Accordingly, it is Applicant’s position that the claims include structural features that are clear and definite and that these features should not be ignored or held to be covered by equivalents which do not present the same structure. Further, each of the terms “molded” and “welded” are well-known to relate to a structural state of a product such that a product by process interpretation is not proper. Finally, the claims in question include clarifying structural limitations which themselves add further structural aspects to the claim combination. These into present limitations as to a range of equivalence and the language as a whole does not present a basis for the interpretation proposed. In any event, each feature of the claims should be considered and the language does not present a basis for any special or any different interpretation of the claims or any special or different application of the prior art.

Claims 1 through 20 have been rejected as being obvious based on the teachings of Janssen et al. (US 6,520,935) in view of Whitney (US 4,220,151). The rejection is based on the position that it would have been obvious to modify the structure taught by Jansen et al. by using polypropylene as suggested by Whitney. However, the references clearly do not teach

the structural features as claimed. In this regard, it is noted that each of the rejections appears to discuss structural features as presented in a previous version of the claims. The rejection does not address the structural features as presented by the amendment dated April 17, 2007. Accordingly, it is requested that the finality of the rejection be removed and that the claims as presented be considered.

Applicants claim 1 highlights an important combination of features in which a frangible web and cap are a single part. This single part is in a connected state via a plastic material connection to the plastic material of the connection end. This combination is not suggested by either Jansen et al. or Whitney. The references fail to teach the crux of the invention. Jansen et al. fails to present any teachings or suggestions which would motivate the person of ordinary skill in the art to depart from the positive engagement structure 50/54 and instead provide a plastic material connection. Further, Jansen et al. does not present a suggestion of providing a plastic material connection as claimed in which the syringe has a plastic material connection end. Whitney fails to provide any suggestions with regard to changing the structure of Jansen et al. so as to provide the combination of features as claimed. Accordingly, the rejection is untenable and it is requested that it be reconsidered.

Regarding each of the claims, including claim 1, Applicant has used the term plastic material connection. This is believed to be clear in that it is a physical or structural feature and it is in particular the connection of one plastic part to another plastic part by plastic material, forming the connection. This can be for example a melting of a plastic parts so that the plastic material that is melted and hardened provides a connection by plastic of the parts to each other. This may be material added such as welding material to form a weld connection which is

plastic material connecting one plastic part to another plastic part. As highlighted in some of the claims, this prevents one piece from rotating relative to the connected other piece or moving relatively, absent a breaking of the plastic connection structure. Although it is Applicant's position that the structure is clear as defined by the claims, Applicant requests that the Examiner discuss the claimed features with the Applicant's Representative during a telephone interview. It is Applicant's position that the nature of the invention is clear and it is Applicant's Representative's understanding that the United States Patent and Trademark Office does have the policy of advancing prosecution on the merits, including agreeing to claim language and the interpretation of claim language to advance the case. To this end, Applicant suggests that an interview can advance the application based on a consideration as to what is the best wording for the structural features of the invention. Although Applicant believes that the claims properly highlight the combination of inventive features, it appears that the limitations are not being considered for some reason. Such an interview can resolve these outstanding issues. Accordingly, it is requested that the Examiner grant such an interview and allow time for such an interview, preferably by telephone and prior to October 3, 2007.

Claims 1 through 20 have been rejected as being obvious based on Reinhard et al. (US 6, 280, 418) in view of Whitney (US 4, 220, 151). It appears that this rejection also does not address the structural features recited in the claims as presented. The rejection makes reference to the primary reference Reinhard et al. as disclosing a frangible web connected to a connection ended by a material fit connection and an adhesive bond. However, there is no discussion of features such as:

from claim 1:

*“...a one piece cap and a frangible web formed as a single injection molded plastic part ...
...said frangible web is connected to plastic material of said connection end by a plastic material connection.”*

from claim 15:

*“...a one piece cap and frangible web formed as a single injection molded plastic part...
...said frangible web being connected to said plastic material connection end by a plastic material connection in substance, preventing relative rotation between said single injection molded plastic part and said plastic material connection end.”*

and from claim 20:

*“...a one piece cap, a frangible web and cylindrical section fixation component formed as a single injection molded plastic part...
....said frangible web being connected to said plastic material connection end via said fixation component and said fixation component being connected to said plastic material connection end by a weld connection in which said fixation component is directly welded to said plastic material connection end, preventing relative rotation between said single injection molded plastic part and said plastic material connection end.”*

Reinhard et al. discloses a container for storing and dispensing injection, infusion and diagnostic preparations. The container includes a base syringe barrel with a glass top section with a glass connector cone 3. Various embodiments are presented including an embodiment with a positive lock connection based on a groove 4 (figure 3). A safety cap with threaded section has a frangible portion with the threaded section 5 interlocking with the groove 4 to maintain the structure in position in the form of a snap connection (column 6). There is no suggestion of a plastic connection in substance as claimed. There is no suggestion as to any

reason for a one piece plastic structure and the connection end being of materials which are compatible with one another, namely both formed of a plastic. Other embodiments are presented but there is no suggestion of a plastic connection in substance as claimed. Whitney fails to teach and fails to suggest a departure from the positive lock connection to instead provide a plastic material connection. As the references as a whole fail to suggest the combination as claimed, reconsideration of this rejection is requested. It is Applicant's position that the claims as presented patentably define over the prior as a whole.

Favorable action on the merits is requested.

Respectfully submitted
for Applicant,



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SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 13-0410.